

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

THE MEDICINES COMPANY,

Plaintiff,

v.

MYLAN INC., MYLAN
PHARMACEUTICALS INC., and
BIONICHE PHARMA USA, LLC,

Defendants.

No. 1:11-CV-01285

Hon. Amy J. St. Eve

Hon. Susan E. Cox, Magistrate Judge

**DEFENDANTS' MOTION FOR LEAVE TO FILE A MEMORANDUM IN SUPPORT
OF A MOTION FOR SUMMARY JUDGMENT IN EXCESS OF 15 PAGES**

Defendants Mylan Inc., Mylan Pharmaceuticals Inc., and Bioniche Pharma USA, LLC, (collectively "Mylan"), by and through the undersigned attorneys, respectfully request that the Court permit them to file a memorandum of law in support of a motion for summary judgment in excess of the 15-page limit under LR 7.1. In particular, Mylan respectfully requests the Court to permit it to file a memorandum of up to 35 pages in length. In support of this motion, Mylan states as follows:

1. The deadline for filing dispositive motions in this case is June 7, 2013. [ECF No. 173].

Mylan intends to file a motion for summary judgment that Mylan's proposed bivalirudin product that is the subject of ANDA No. 202471 ("Mylan's proposed ANDA product") does not infringe U.S. Patent Nos. 7,582,727 ("the '727 patent") or 7,598,343 ("the '343 patent") (collectively "the patents-in-suit"), and, in the alternative, that asserted claims of the patents-in-suit are invalid on multiple grounds. If granted, Mylan's summary judgment motion may be fully dispositive of all claims brought by Plaintiff The Medicines Company ("TMC") in this case.

2. In order to explain to the Court why Mylan's proposed ANDA product does not infringe the patents-in-suit, or alternatively why claims of those patents are invalid, Mylan must provide significant background information concerning the patents-in-suit, Mylan's proposed ANDA product and TMC's prior art Angiomax[®] product, as well as other pertinent details.
3. While Mylan believes that its motion for summary judgment will advance the ultimate disposition of this lawsuit, it will require a memorandum of law in excess of the Court's 15-page limit pursuant to LR 7.1. Mylan therefore respectfully requests that the Court grant it leave to file a memorandum in support of its planned motion for summary judgment not exceeding 35 pages in length.¹

¹ Mylan has conferred with counsel for TMC on this issue. TMC stated that it would agree only to a 25 page limit. Mylan, however, believes that a 35 page limit is more appropriate to the scope and content of its motion. Counsel for TMC further requested that Mylan agree to an excess page limit for a summary judgment motion brought by TMC. However, TMC's counsel was unwilling to state whether TMC is, or is not, going to file a summary judgment motion, nor was TMC counsel's able to confirm the proposed grounds for any such motion. Mylan has no objection in principle to TMC filing a 25 or 35 page memorandum, and offered to complete the conferral after TMC decides whether it will bring a motion and, if so, what will be the general grounds for the motion.

Dated: May 24, 2013

Respectfully submitted,

By: /s/ Scott D. Eads
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CERTIFICATE OF SERVICE

I, Scott D. Eads, hereby certify that on May 24, 2013, I electronically filed and served the foregoing ***Defendants' Motion For Leave to File a Memorandum in Support of a Summary Judgment Motion in Excess of 15 Pages*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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